

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

ALLEN HAMMLER,

Plaintiff,

v.

STATE OF CALIFORNIA, et al.,

Defendants.

No. 1:20-cv-00630-DAD-GSA (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS AND DISMISSING
CASE WITHOUT PREJUDICE

(Doc. No. 20)

Plaintiff Allen Hammler is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. The matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302.

On July 1, 2020, the assigned magistrate judge issued an order requiring plaintiff to show cause (“OSC”) within thirty days why the case should not be dismissed due to plaintiff’s failure to first exhaust administrative remedies before filing suit which was clear from the face of his complaint. (Doc. No. 16.) On July 19, 2020, plaintiff filed a response to the order. (Doc. No. 19.) In his response, plaintiff did not discuss whether he exhausted his available remedies. (*Id.*) On July 16, 2020, the assigned magistrate judge issued findings and recommendations, recommending that the case should be dismissed without prejudice because plaintiff failed to exhaust his available administrative remedies before filing this case. (Doc. No. 20 at 3.)

1 The findings and recommendations were served on plaintiff and contained notice that
2 objections thereto were to be filed within fourteen (14) days after service. (*Id.* at 4.) Plaintiff
3 filed timely objections to the findings and recommendations on July 27, 2020. (Doc. No. 21.)
4 The court finds plaintiff's objections lack relevance. Plaintiff claims "his honor is too
5 disconnected to the culture and political structure of the penal system inside these electrified
6 fences that he sees my effort to hold on to a usable state of mind as a sin against his bench." (*Id.*
7 at 1.) Plaintiff does not address his obvious failure to exhaust all administrative remedies prior to
8 filing suit as is required.


9 In accordance with the provisions of 28 U.S.C. § 636 (b)(1)(C), this court has conducted a
10 *de novo* review of the case. Having carefully reviewed the entire file, including plaintiff's
11 objections, the court finds the findings and recommendations to be supported by the record and
12 proper analysis.

13 Accordingly,

- 14 1. The findings and recommendations issued on July 16, 2020 (Doc. No. 20) are
15 adopted in full;
- 16 2. This action is dismissed without prejudice due to plaintiff's failure to exhaust his
17 available administrative remedies prior to filing this action as is required; and
- 18 3. The Clerk of the Court is directed to close this case.

19 IT IS SO ORDERED.

20 Dated: October 29, 2020

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23 UNITED STATES DISTRICT JUDGE
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